

SENATE BILL 3137

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 54, Chapter 1; Title 56 and Chapter 902 of the Public Acts of 2004, relative to reports on medical or professional malpractice claims.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-54-101(a)(3), is amended by deleting the period at the end of the sentence and adding the following:

or who considers themselves as self insured.

SECTION 2. Tennessee Code Annotated, Section 56-54-101(a), is amended by adding a new subdivision (4), as follows:

(4) Every counsel who enters into a fee arrangement with a claimant for services rendered in connection with asserting a claim covered by this section.

SECTION 3. Tennessee Code Annotated, Section 56-54-101(c), is amended by adding a new subdivision (6) as follows:

(6) Beginning with the 2008 report and on all subsequent annual reports, the reporting entities described in subdivisions (a)(1) and (a)(2) shall report the amount previously reserved on all claims closed during the current report year. The department shall include the following disclaimer on case reserves on each report:

Insurance companies and their actuaries use such "case reserves" and other important factors to develop a single reserve amount for their financial statements. The unadjusted sum of case reserves is not used to set premiums or make any financial decisions. The department requires annual certification of each insurance company's final financial statement reserves by professional actuaries.

SECTION 4. Tennessee Code Annotated, Section 56-54-101(g), is amended by deleting the last two sentences in their entirety and by substituting instead the following:

Any report shall contain aggregate data only but shall differentiate between health care institutions listed in subdivisions (a)(1) and (a)(3) and health care professionals listed in subdivisions (a)(2) and (a)(3). The data shall not identify any individual entity or health care provider. The annual report compiled by the department shall aggregate total settlement and judgment to all health care providers in connection with a single occurrence, provided that such report shall not contain any claimant's social security number. Beginning with the 2008 report and on all subsequent annual reports, the department shall include the following disclaimer clarifying the linkage between premiums collected and claims and expenses paid during the year:

It is important to realize that the Direct Premiums Written by the reporting insurance companies in 2007, and in subsequent years, can neither be matched to claims closed in 2007 nor to claims pending at the end of 2007 as summarized herein. Under the terms of most insurance policies approved by the department, the coverage and premiums for 2007 apply to new claims reported in 2007. Medical malpractice claims typically require several years to resolve, thereby causing long gaps in time between the determination of premiums and the settlement of all covered claims. Insurance companies regulated by the department must file a standardized annual statement that contains an exhibit titled Schedule P that matches premiums, claims, losses and expenses year by year. It is the responsibility of professional actuaries to calculate trends in losses and expenses and mathematically estimate the total premiums required for each type of coverage. These calculations and other documentation must be filed with the department with any requested change in insurance rates. The total of Direct

Premiums Written is stated in this report for reference only, and the reader should draw no conclusions about premium adequacy from this report.

SECTION 5. Tennessee Code Annotated, Section 56-54-101(l), is amended by deleting the first sentence in its entirety and by substituting instead the following:

The commissioner of commerce and insurance is authorized to enforce this section against any entity required to report under subsection (a).

SECTION 6. Chapter 902 of the Public Acts of 2004 is amended in Section 5 by deleting the second sentence in its entirety and by substituting instead the following:

Sections 1 and 2 of this act shall expire on September 30, 2012, the public welfare requiring it.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.